MONTANA LEGISLATIVE HISTORY

Chapter 91 19 83

Bill H _____ S 129 Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 03	✓ C	Hearing Date(s)	Jan 24	✓ C
		____C		Jan 25	✓ C
		____C			____C
		____C			____C
Date Out	Mar 03	✓ C		Jan 25	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2ND READING: 03/10/83, BE CONCURRED IN, AS AMENDED AYES: 95; NAYS: 2
3RD READING: 03/11/83, BE CONCURRED IN AYES: 98; NAYS: 1

RETURNED TO SENATE WITH AMENDMENTS: 3/12/83
2ND READING: 03/14/83 AYES: 49; NAYS: 0
3RD READING: 03/15/83 AYES: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/21/83
SIGNED: 3/24/83, CHAPTER 191

SB 128 -- HAZELBAKER, BLAYLOCK, MENAHAN, ET AL. -- TO EXPAND THE DEFINITION OF "HOUSING DEVELOPMENT" FOR PURPOSES OF PROGRAMS ADMINISTERED BY THE BOARD OF HOUSING ....

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/13/83
HEARING: 1/21/83
REPORT: 01/21/83, DO PASS
2ND READING: 01/24/83 AYES: 50; NAYS: 0
3RD READING: 01/26/83 AYES: 49; NAYS: 0

TRANSMITTED TO HOUSE: 1/26/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/27/83
HEARING: 3/4/83
REPORT: 03/07/83, BE CONCURRED IN
2ND READING: 03/08/83, BE CONCURRED IN AYES: 94; NAYS: 0
3RD READING: 03/09/83, BE CONCURRED IN AYES: 97; NAYS: 0

RETURNED TO SENATE: 3/9/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 3/17/83, CHAPTER 90

SB 129 -- FULLER, J. BROWN, CHRISTIAENS, ET AL. -- TO INCREASE FROM 60 DAYS TO 90 DAYS THE TIME IN WHICH A RETURN MUST BE MADE TO A WRIT OF EXECUTION....

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/13/83
HEARING: 1/24/83
REPORT: 01/25/83, DO PASS, AS AMENDED
2ND READING: 01/27/83 AYES: 48; NAYS: 0
3RD READING: 01/29/83 AYES: 47; NAYS: 1

TRANSMITTED TO HOUSE: 1/29/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/29/83
HEARING: 3/3/83
REPORT: 03/03/83, BE CONCURRED IN
2ND READING: 03/04/83, BE CONCURRED IN AYES: 88; NAYS: 0
3RD READING: 03/07/83, BE CONCURRED IN AYES: 96; NAYS: 0

RETURNED TO SENATE: 03/08/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 3/17/83, CHAPTER 91

SB 130 -- MAZUREK, BERG, FULLER, ET AL. -- REQUIRING A FISCAL NOTE ON LEGISLATION AFFECTING LOCAL GOVERNMENTS ....

There being no further proponents, and no opponents, the hearing was closed on SB147.

CONSIDERATION OF SENATE BILL 129:

AN ACT TO INCREASE FROM 60 DAYS TO 90 DAYS THE TIME IN WHICH A RETURN MUST BE MADE TO A WRIT OF EXECUTION; AMENDING SECTION 25-13-404, MCA.

Senator Fuller, sponsor of this bill, explained its intent to the Committee. There is currently a 60 day time period for sheriffs to make their return of execution to the clerk of the court. Because of this time period, there has been a problem with "bottlenecking" of paperwork. The sheriffs feel that it would be more efficient to extend this time period to 90 days. An amendment was also submitted to the Committee to make the bill apply only to writs issued by the county treasurer under 15-16-401, MCA (Exhibit "A").

Chuck O'Reilly, Sheriff of Lewis and Clark County, advised that this bill was drafted upon his request. The process of locating personal property and the paperwork involved is time consuming and he felt it would be beneficial to extend the time period for the filing of the returns. He also noted that because of the seasonal work in this area, this extension of time would allow people a longer period to raise the money before executions took place.

There being no further proponents, and no opponents, the hearing on SB129 was closed.

CONSIDERATION OF SENATE BILL 142:

AN ACT TO REMOVE THE REQUIREMENT THAT RELEASED FEDERAL TAX LIENS NOT BE REMOVED FROM THE FILES OF THE SECRETARY OF STATE; AMENDING SECTION 71-3-205, MCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Senator Gage, sponsor of this bill, advised the Committee that it was drafted at the request of the Secretary of State's Office. Due to a shortage of space, the Secretary of State feels it would be advantageous for them to dispose of their files containing released federal tax liens. They would still maintain this information on index cards.

Cliff Christian of the Secretary of State's Office, gave his support for this bill. He advised that the IRS has informed his office that they would have no objection to this proposal and he submitted a letter to the Committee from the IRS (Exhibit "B").

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 1-24-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

DATE January 24, 1983

COMMITTEE ON Judiciary BILL NO. 129

VISITOR'S REGISTER

NAME	REPRESENTING	Check One Support	Oppose
Chuck O'Reilly	Mont Sheriffs & Peace Officers	✓	
P. S. Bridgman	Lewis & Clark Co. S.O.	✓	
Thomas Rad Ann	Lewis & Clark Cty S.O.		
John Delano	Mont RR assn		

DATE January 24, 1983

COMMITTEE ON Judiciary BILL NO. 145

VISITOR'S REGISTER

NAME	REPRESENTING	Check One Support	Oppose
Mike Abley	Supreme Court	✓	

DATE January 24, 1983

COMMITTEE ON Judiciary BILL NO. 147

VISITOR'S REGISTER

NAME	REPRESENTING	Check One Support	Oppose
Bill Fogarty	Dept of Commerce	✓	
Wayne Budd	PSC		
MORRIS GULLICKSON	UNITED TRANSPORTATION UNION	✓	

EXHIBIT "A"
January 24, 1983

MCA 15-16-401. Tax due as a judgment or lien. Every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes and deliver the same to the sheriff. The sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof.

MCA 25-13-404. Return of the execution. The execution may be made returnable, at any time not less than 10 or more than 60 days after its receipt by the sheriff, to the clerk of the court in which the judgment was rendered.
The writ of execution issued by the county treasurer may be made returnable, at any time not less than 10 or more than 90 days after its receipt by the sheriff, to the county treasurer of the county in which the writ was issued.

PURPOSE

MCA 15-16-401 authorizes the county treasurer to issue writs of executions for delinquent personal property taxes such as on motor vehicles and/or airplanes, or trailer houses. In many instances as much as 30 days may lapse while locating registered owners and lien information on the personal property in question. Considerable more time may lapse while attempting to locate the property (moving violations with vehicles) in an attempt to make the seizure. Once seized the sale is then set for not less than 5 days nor more than 10 days from the date of posting the notice of sale. It is strongly felt that by increasing the life of the writ of execution issued by the county treasurer will greatly assist the tax investigator of the sheriff's department.

It is recommended that this writ life increase from 60 days to 90 days should only be allowed in this specific area of county treasurer writs. To increase the life of all writs of execution will create a considerable burdon upon the sheriff's civil bureau in that the accumulation of monies seized will become a serious bookkeeping problem in many areas and will delay the return of many writs to the courts and thereby a serious loss of control by the courts.

motion passed unanimously. Senator Mazurek then moved that SB183 DO PASS AS AMENDED. This motion also passed unanimously.

DISPOSITION OF HOUSE BILL 71: Senator Daniels moved that HB71 DO PASS. This motion carried unanimously.

DISPOSITION OF HOUSE BILL 61: Senator Berg moved that HB61 DO PASS. This motion also carried unanimously.

FURTHER DISCUSSION OF HOUSE BILL 53: It was the concensus of the Committee that HB53 should be referred to the staff for amendments.

DISPOSITION OF SENATE BILL 52: There was no question that a third judge is needed in the first judicial district. If SB26 is adopted it would provide for this third judge and SB52 would become void. Senator Mazurek moved that SB52 should be amended to reflect the election option of the county commissioners and the date the office would become effective. This motion passed unanimously. Senator Mazurek then moved that SB52 DO PASS AS AMENDED which also passed unanimously.

DISPOSITION OF SENATE BILL 129: The staff council advised the Committee that he had reviewed the amendments as proposed by Senator Fuller and Sheriff O'Reilly. The Committee approved the concept of the bill and the amendment which narrowed the bill to only writs of execution issued by a county treasurer. Senator Galt moved to adopt the amendment as proposed. This motion carried with only Senator Berg voting in opposition.

Senator Crippen moved that SB129 DO PASS. This motion carried with only Senator Daniels voting in opposition.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 11:00.

Jean A. Turnage

JEAN A. TURNAGE
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 1-25-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

STANDING COMMITTEE REPORT

January 25, 19 83

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration Senate Bill No. 129

Fuller

Respectfully report as follows: That Senate Bill No. 129

introduced bill, be amended as follows:

1. Title, line 6.
   Following: "EXECUTION"
   Insert: "ISSUED BY THE COUNTY TREASURER"

2. Section 1, line 10.
   Following: "execution."
   Strike: "The"
   Insert: "(1) Except as provided in subsection (2),"

3. Section 1, line 12.
   Following: "than ~~60~~"
   Strike: "90"
   Insert: "60"

4. Section 1.
   Following: "rendered."
   Strike: " " "

XXXXXX
~~DO PASS~~

(continued on page 2)

Chairman.

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE DAVE BROWN stated that he philosophically was opposed to this bill, because basically the administration wants to cut the federal government and yet they want to enforce laws like this and they are forcing the state to enforce federal law.

REPRESENTATIVE DAILY questioned how much money does the food stamp program bring into Montana. MS. GODBOUT answered about $23 to $25 million. REPRESENTATIVE DAILY said that if we can't spend a few bucks to defend $25 million, there is something wrong with us.

There were no further quesions and the hearing on this bill was closed.

SENATE BILL 129

SENATOR FULLER said that this bill was brought to him by Sheriff O'Reilly, that they did some amending in the Senate and got it in the form they wanted. The is an act to increase from 60 days to 90 days the time in which a return must be made to a writ of execution issued by the county treasurer.

CHUCK O'REILLY, Sheiff of Lewis and Clark County, said that they have had a problem in the length of time that it takes them to track down the property can often times exceed the amount of time they need in order to file the return. He says that they have to go back to the treasurer, reissue and start the process all over again.

There were no further proponents and no opponents. There were no questions and the hearing on this bill was closed.

SENATOR FULLER informed the committee that Representative Brown will carry the bill on the floor.

EXECUTIVE SESSION

HOUSE BILL 129

REPRESENTATIVE DAILY moved that the bill BE CONCURRED IN. The motion was seconded by REPRESENTATIVE JAN BROWN. The motion carried unanimously.

STANDING COMMITTEE REPORT

March 3, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 129

third reading copy (blue)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM 60 DAYS TO 90 DAYS THE TIME IN WHICH A RETURN MUST BE MADE TO A WRIT OF EXECUTION ISSUED BY THE COUNTY TREASURER; AMENDING SECTION 25-13-404, MCA."

Respectfully report as follows: That SENATE Bill No. 129

~~SO PASS~~

BE CONCURRED IN

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL Senate Bill 129 DATE March 3, 1983

SPONSOR Senator Fuller

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Chuck O'Reilly	Helena	Sheriff	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83